

**Notice of Allowability**

Application No.

09/643,260

Examiner

Rita Mitra

Applicant(s)

MAY ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/25/2004.
2. ☒ The allowed claim(s) is/are 19-22,28 and 31-47.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 9/24/2002.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 9/10/2004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Claims***

Applicants' After Final Amendment in response to office action dated March 25, 2004 filed on August 25, 2004 is acknowledged. Claims 1-18, 23-27, 29, 30 have been canceled. Claims 19, 20, 28, 31-46 have been amended and entered. New claim 47 has been added. Therefore, claims 19-22, 28 and 31-47 are currently pending and are under consideration.

### ***Response to Amendments***

The rejection of claims 28, 31-46 under **35 U.S.C. 112, second paragraph** is withdrawn in view of amendment to the claims.

The rejection of claims 29 and 30 under **35 U.S.C. 112, second paragraph** is moot because these claims have been canceled.

The rejection of claims 19-21 under **35 U.S.C. 102(b)** as being anticipated by Rothe et al. is withdrawn in view of amendment to claims 19 and 20.

The rejection of claim 29 under **35 U.S.C. 102(b)** as being anticipated by Rothe et al. is moot because claim 29 has been canceled.

The rejection of claims 19 and 28 under **35 U.S.C. 102(b)** as being anticipated by Cole et al. is withdrawn in view of amendment to the claims.

The rejection of claim 30 under **35 U.S.C. 102(b)** as being anticipated by Cole et al. is moot because claim 30 has been canceled.

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

### ***Examiner's Amendments to the Specification***

The Specification has been corrected as below:

"Inventors" have been deleted from page 1, line 1.

"Michael J. May and Sankar Ghosh" has been deleted from page 1, line 2.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest an isolated peptide comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, wherein said peptide is less than one-hundred amino acids in length. Further prior art does not teach a composition comprising said peptides. The prior art of record does not teach or suggest an isolated peptide consisting of an amino acid sequence selected from the group consisting of SEQ ID NO: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19.

The prior art of record Rothe et al. teach an IKK-alpha protein which has 100% sequence identity to SEQ ID NO: 2. However, Rothe et al.'s peptide has 745 amino acid residues in length.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Claims 19-22, 28 and 31-47 are allowed.

### ***Inquiries***

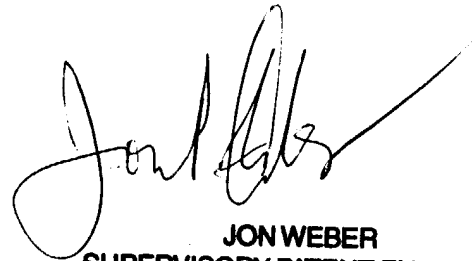
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (571) 272-0954. The

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Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Jon Weber, can be reached at (571) 272-0925. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology Center 1600 via the PTO Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0547.



Rita Mitra, Ph.D.  
September 29, 2004



**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**